

Michigan Law Review

Volume 95 | Issue 1

1996

Front Matter

Michigan Law Review

Follow this and additional works at: <https://repository.law.umich.edu/mlr>

Recommended Citation

Michigan Law Review, *Front Matter*, 95 MICH. L. REV. i (1996).

Available at: <https://repository.law.umich.edu/mlr/vol95/iss1/1>

This Front Matter is brought to you for free and open access by the Michigan Law Review at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Law Review by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mlaw.repository@umich.edu.

Michigan Law Review

VOLUME 95
1996-1997

The University of Michigan
Law School

Michigan Law Review
Ann Arbor, Michigan 48109-1215

Michigan Law Review

Vol. 95, No. 1

October 1996

CONTENTS

ARTICLES

- CONGRESSIONAL ETHICS AND CONSTITUENT
ADVOCACY IN AN AGE OF MISTRUST..... *Ronald M. Levin* 1
- ANTITRUST BALANCING IN A (NEAR) COASEAN
WORLD: THE CASE OF FRANCHISE TYING
CONTRACTS..... *Alan J. Meese* 111
- THE POLITICS OF POSTMODERN
JURISPRUDENCE *Stephen M. Feldman* 166

ESSAY

- ATTAINDER AND AMENDMENT 2: *ROMER*'S
RIGHTNESS..... *Akhil Reed Amar* 203

CORRESPONDENCE

- IS AMENDMENT 2 *REALLY* A BILL OF
ATTAINDER? SOME QUESTIONS ABOUT
PROFESSOR AMAR'S ANALYSIS
OF *ROMER* *Roderick M. Hills, Jr.* 236

NOTE

- SECURING RUSSIA'S FUTURE: A PLEA
FOR REFORM IN RUSSIAN SECURED
TRANSACTIONS LAW *Jason J. Kilborn* 255

RECENT BOOKS

BOOKS RECEIVED 296

Copyright © 1996 by the Michigan Law Review Association. Except where otherwise expressly provided, the author of each article and Note in this issue has granted permission for copies of that article or Note to be made for educational use, provided that (i) copies are distributed at or below cost; (ii) the author and the *Michigan Law Review* are identified; (iii) prior written notice of the use is given to the Michigan Law Review Association; and (iv) proper notice of copyright is affixed to each copy.

The design on the cover is taken from an etching of The University of Michigan Legal Research Building.

Michigan Law Review (ISSN 0026-2234) is published monthly in October, November, December, February, March, May, June, and August. Subscriptions: United States, \$50 per year in advance, eight numbers; Foreign, \$60. Editorial and Business Offices: Hutchins Hall, Ann Arbor, Michigan 48109-1215; 313/764-0542 (Editorial); 313/763-5870 (Business); 313/647-5817 (Fax). Periodicals postage paid at Ann Arbor, Michigan, and additional mailing offices. POSTMASTER: send address changes to Michigan Law Review, Hutchins Hall, Ann Arbor, Michigan 48109-1215.

Printed at Darby Printing Co., Atlanta, Georgia 30036.

Recent Volumes: Single Issues \$8, Book Review \$14, and Special Issues \$10, postpaid, at Editorial and Business Offices.

Back issues and volumes (before November 1987) available from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209.

Because back stock of the *Review* is turned over to a dealer, back numbers are available to the *Review* for a short time only. We must therefore ask that subscribers report the nonreceipt of copies within six months of the mailing date.

We gladly consider unsolicited manuscripts for publication. Citations in manuscripts should follow the form prescribed in *The Bluebook: A Uniform System of Citation* (16th ed. 1996) and *The Chicago Manual of Style* (14th ed. 1993). We regret that we can return only those manuscripts for which we receive postage and handling fees of \$3.50 for first-class and \$1.50 for special fourth-class mail.

UNIVERSITY OF MICHIGAN LAW SCHOOL

Fall 1996

Administrative Officers

HOMER A. NEAL, M.S., PH.D., *Interim President of the University*
J. BERNARD MACHEN, D.D.S., PH.D., *Provost and Executive Vice President for Academic Affairs*
JEFFREY S. LEHMAN, A.B., J.D., M.P.P., *Dean*
KENT D. SYVERUD, B.S.F.S., J.D., M.A., *Associate Dean for Academic Affairs*
SUSAN M. EKLUND, A.B., J.D., *Associate Dean for Student Affairs*
SUELLYN SCARNECCHIA, B.A., J.D., *Associate Dean for Clinical Affairs*
VIRGINIA B. GORDAN, B.A., J.D., *Assistant Dean for International Programs*
DENNIS J. SHIELDS, B.A., J.D., *Assistant Dean and Admissions Officer*

Professors Emeriti of Law

FRANCIS A. ALLEN, A.B., LL.B., J.D., LL.D., <i>Edson R. Sunderland Professor of Law</i>	FRANK R. KENNEDY, A.B., LL.B., J.S.D., <i>Thomas M. Cooley Professor of Law</i>
OLIN L. BROWDER, A.B., LL.B., S.J.D., <i>James V. Campbell Professor of Law</i>	MARVIN L. NIEHUSS, A.B., LL.B.
ALFRED F. CONRAD, A.B., LL.B., LL.M., J.S.D., LL.D., <i>Henry M. Butzel Professor of Law</i>	WILLIAM J. PIERCE, A.B., J.D.
LUKE K. COOPERRIDER, B.S., J.D.	ROY F. PROFFITT, B.S., J.D., LL.M.
SAMUEL D. ESTEP, A.B., J.D.	JOHN W. REED, A.B., LL.B., LL.M., JUR.SC.D., <i>Thomas M. Cooley Professor of Law</i>
ROBBEN W. FLEMING, B.A., LL.B., LL.D.	RUSSELL A. SMITH, A.B., J.D.
WHITMORE GRAY, A.B., J.D., LL.D.	ERIC STEIN, J.U.D., J.D., DR.H.C., DR.H.C., <i>Hessel E. Yntema Professor of Law</i>
JEROLD H. ISRAEL, B.B.A., LL.B., <i>Alene and Allan F. Smith Professor of Law</i>	PETER O. STEINER, A.B., M.A., PH.D.
CHARLES W. JOYNER, A.B., J.D.	ANDREW S. WATSON, B.S., M.D., M.S. IN MED.

Professors of Law

T. ALEXANDER ALEINIKOFF,** B.A., J.D.	WILLIAM R. JENTES,* A.B., J.D.
LAYMAN E. ALLEN, A.B., M.P.A., LL.B.	DOUGLAS A. KAHN,** B.A., J.D., <i>Paul G. Kauper Professor of Law</i>
JOSE E. ALVAREZ, B.A., B.A./M.A., J.D.	YALE KAMISAR, A.B., LL.B., LL.D., <i>Clarence Darrow Distinguished University Professor of Law</i>
SUSAN T. BART,* B.A., J.D.	THOMAS E. KAUPER, A.B., J.D., <i>Henry M. Butzel Professor of Law</i>
WILLIAM J. BOGAARD,* B.S., J.D.	JAMES E. KRIER,** B.S., J.D., <i>Earl Warren DeLano Professor of Law</i>
ANDREW P. BUCHSBAUM,† A.B., J.D.	JEFFREY S. LEHMAN, A.B., J.D., M.P.P.
DAVID L. CHAMBERS,** A.B., LL.B., <i>Wade H. McCree Professor of Law</i>	RICHARD O. LEMPert, A.B., J.D., PH.D., <i>Francis A. Allen Professor of Law</i>
EDWARD H. COOPER, A.B., LL.B., <i>Thomas M. Cooley Professor of Law</i>	JEFFREY S. LISS,* A.B., A.M., J.D.
DONALD N. DUQUETTE,†† B.A., J.D.	CATHARINE A. MACKINNON,** B.A., J.D., PH.D.
REBECCA S. EISENBERG, B.A., J.D.	WILLIAM I. MILLER, B.A., PH.D., J.D.
PHOEBE C. ELLSWORTH, A.B., PH.D., <i>Kirkland & Ellis Professor of Law</i>	JEFFREY H. MIRO,* B.A., J.D., LL.M.
MERRITT B. FOX, B.A., J.D., PH.D.	LINDA S. MULLENIX,* B.A., MPhil., PH.D., J.D.
RICHARD D. FRIEDMAN, B.A., J.D., D.Phil.	SALLYANNE PAYTON, A.B., LL.B.
BRUCE W. FRIER, B.A., PH.D., <i>Henry King Ransom Professor of Law</i>	ERNST-ULRICH PETERSMANN,* DR. JUR. UTR., <i>Dean's Distinguished Visiting Interna- tional Scholar</i>
DEBORAH A. GEIER,* A.B., J.D.	RICHARD H. PILDES, A.B., J.D.
THOMAS A. GREEN, B.A., PH.D., J.D., <i>John Philip Dawson Professor of Law</i>	
SAMUEL R. GROSS, A.B., J.D.	
DONALD J. HERZOG, A.B., A.M., PH.D.	
LAURA J. HINES,* B.A., J.D.	
JOHN H. JACKSON, B.A., J.D., <i>Hessel E. Yntema Professor of Law</i>	

BEVERLEY J. POOLEY,** B.A., LL.B., LL.M.,
S.J.D.

RADHIKA D. RAO,* A.B., J.D.

DONALD H. REGAN, A.B., LL.B., B.Phil.,
Ph.D.,

William W. Bishop, Jr. Professor of Law

MATHIAS W. REIMANN,** DR. IUR., LL.M.

PAUL D. REINGOLD,†† B.A., J.D.,

WILLIAM M. RICHMAN,* B.A., J.D.

THEODORE J. ST. ANTOINE, A.B., J.D.,

*James E. and Sarah A. Degan Professor of
Law*

TERRANCE SANDALOW, A.B., J.D.,

Edson R. Sunderland Professor of Law

SUELLYN SCARNECCHIA, B.A., J.D.

CARL E. SCHNEIDER, A.B., J.D.

STANLEY S. SCHWARTZ,* B.A., J.D.

A.W. BRIAN SIMPSON,** B.A., M.A., D.C.L.,

*Charles F. and Edith J. Clyne Professor of
Law*

PHILIP SOPER, B.A., M.A., J.D., Ph.D.,

James V. Campbell Professor of Law

KENT D. SYVERUD, B.S.F.S., J.D., M.A.

JOSEPH VINING,** B.A., M.A., J.D.,

Harry Burns Hutchins Professor of Law

LAWRENCE W. WAGGONER, B.B.A., J.D.,
D.Phil.,

Lewis M. Simes Professor of Law

PETER K. WESTEN, B.A., J.D.,

Frank G. Millard Professor of Law

JAMES BOYD WHITE, A.B., A.M., LL.B.,

L. Hart Wright Professor of Law

JAMES J. WHITE, B.A., J.D.,

Robert A. Sullivan Professor of Law

CHRISTINA B. WHITMAN,** A.B., M.A., J.D.

Associate Professor of Law

MARTIN J. STONE,* B.A., J.D.

Assistant Professors of Law

ERIC A. BILSKY,†† B.A., M.A., J.D.

RENEE BIRNBAUM,†† B.A., J.D.

HOWARD J. BROMBERG,†† B.A., J.D., J.S.M.

LORRAY S. C. BROWN,†† B.A., J.D.

SHERMAN J. CLARK, B.S., J.D.

LARRY J. COHEN,†† B.A., M.A., Ph.D., J.D.

STEVEN P. CROLEY, A.B., J.D., M.A.

CAMERON DAVIS,†† B.A., J.D.

WARREN T. DEAN,†† B.A., M.S., M.A.

HEIDI L. FELDMAN, B.A., J.D., Ph.D.

PHILIP M. FROST,† B.A., J.D.

RICHARD B. GINSBERG, B.A., J.D.

PETER J. HAMMER, B.S., B.A., J.D., Ph.D.

MICHAEL A. HELLER, A.B., J.D.

RODERICK M. HILLS, JR., B.A., J.D.

LANCE R. JONES,†† A.B., J.D.

ROCHELLE E. LENTO,†† B.A., J.D.

KYLE D. LOGUE, B.A., J.D.

ANDREA D. LYON,†† B.A., J.D.

DEBORAH C. MALAMUD, B.A., J.D.

NICHOLAS J. RINE,†† B.A., J.D.

THEODORE M. SHAW,** B.A., J.D.

GRACE C. TONNER,†† B.A., J.D.

THOMAS H. SEYMOUR,†† B.A., M.A., J.D.

CAROLYN R. SPENCER,†† A.B., J.D.

Instructors in Law

SONIA MATEU SUTER,* B.A., M.S., J.D.

Lecturers in Law

JEFFREY D. DILLMAN,† B.A., J.D.

RICHARD B. DRUBEL,† A.B., J.D., LL.M.

SUSAN R. GZESH,† A.B., J.D.

CAROL K. HOLLENSHEAD,† A.B., J.D.

CYRIL MOSCOW,† A.B., J.D.

MITCHELL A. SEIDER,† A.B., J.D.

MYRON M. SHEINFELD,† B.A., J.D.

† ADJUNCT †† CLINICAL

* VISITING ** ON LEAVE

Michigan Law Review

Vol. 95, No. 1

October 1996

EDITORIAL BOARD

Editor-in-Chief

CHRISTOPHER M. TAYLOR, *of Illinois*

Managing Editor

MICHAEL D. LEFFEL, *of Wisconsin*

Book Review Editors

JOHN C. FORD, *of Michigan*

SARAH E. IDELSON, *of Massachusetts*

Executive Article Editor

WENDY J. SCHECHTER, *of New Jersey*

Executive Note Editor

ALEX ROMAIN, *of Massachusetts*

Executive Editors

SILVIA J. HANSELL, *of South Carolina*

CHRISTOPHER L. SAGERS, *of Iowa*

JEREMY D. SPECTOR, *of Pennsylvania*

Article Editors

RICK A. BIERSCHBACH, *of Michigan*

ERIC J. HECKER, *of California*

DAVID S. MENDEL, *of New York*

STEVEN C. SEEGER, *of Minnesota*

Note Editors

JANE ECKELS, *of Vermont*

JEFFREY L. FISHER, *of Kansas*

JORDAN B. HANSELL, *of Iowa*

JASON J. KILBORN, *of Iowa*

TIMOTHY R. MACDONALD, *of Kansas*

ANGELA I. ONWUACHI-WILLIG, *of Texas*

Contributing Editors

CHAD G. ASARCH, *of Colorado*

J. PATTERSON BRUMBAUGH, *of Florida*

JENNIFER W. CHALOEMTIARANA, *of Texas*

SHANNON E. CONATY, *of Connecticut*

*TERESA V. FLEMING, *of Michigan*

*SARAH G. GINSBURG, *of New Mexico*

*SHANNON C. JONES, *of Maine*

RUDOLPH M. KAMMERER, *of New York*

ANDREW B. KAY, *of New York*

JOHN D. KING, *of Minnesota*

JONATHAN A. KULISH, *of Michigan*

STEPHEN M. KUPERBERG, *of Michigan*

STEVEN G. LAMBERT, *of California*

TODD LEBOWITZ, *of Florida*

*JASON M. LEVIEN, *of New York*

DAVID A. MCCREEDY, *of Michigan*

DARIUS J. MEHRABAN, *of Michigan*

DAVID I. PAULSON, *of Massachusetts*

TIMOTHY M. PINTO, *of New York*

IAN J. PLANT, *of New York*

JON M. POWERS, *of Michigan*

JULIE C. RODRIGUEZ, *of California*

TIM J. SCHMUCKAL, *of Michigan*

ADAM H. SHAH, *of New York*

CHAD A. SKINNER, *of Georgia*

AUBRY D. SMITH, *of Pennsylvania*

JOEL S. SMITH, *of Michigan*

DANIEL L. STANLEY, *of California*

Associate Editors

TODD S. AAGAARD, *of California*

ANTHONY S. BAISH, *of Iowa*

ELIN M. BRENNER, *of Ohio*

MICHAEL T. CAHILL, *of New Jersey*

TUNG M. CHAN, *of Michigan*

CHRISTINE L. COONEY, *of Minnesota*

SCOTT L. DARLING, *of California*

MICHAEL B. FISCH, *of Washington, D.C.*

GILLIAN N. FLORY, *of New York*

ANDREA R. FREUDENBERGER, *of Maryland*

MARK R. GORDON, *of Michigan*

JOHN J. GRIGGS, *of Maryland*

ERIN C. HAIROPOULOS, *of California*

MATTHEW A. HAMERMESH, *of Michigan*

JOEL B. KALODNER, *of Massachusetts*

SHARAD S. KHANDELWAL, *of Texas*

STEPHAN E. KLEIN, *of Maryland*

BRENT D. KNIGHT, *of Michigan*

RYAN C. LARRENAGA, *of Massachusetts*

DANIEL E. LAYTIN, *of Illinois*

ELISA S. LEE, *of Michigan*

JOSHUA LIPTON, *of Pennsylvania*

JOELLE C. LUEDTKE, *of Illinois*

ROBERT L. LUNDMAN, *of Ohio*

ANN L. MCGUIRE, *of California*

MARY T. MITCHELL, *of Vermont*

USMAN MOHAMMAD, *of North Carolina*

SUSAN E. MORTENSEN, *of Wyoming*

JAMES E. MYERS, JR., *of Georgia*

DANIEL S. PEACE, *of Michigan*

TODD R. PLOTTNER, *of Illinois*

SCOTT D. POMFRET, *of Massachusetts*

MIREILLE A. RAOUL, *of Illinois*

BRIAN P. RIGONAN, *of Michigan*

TYLER B. ROBINSON, *of Massachusetts*

E. MICHAEL ROSSMAN, *of Ohio*

BRADLEY B. ROUNSAVILLE, *of Mississippi*

KEVIN V. RUDDY, *of Massachusetts*

JASON D. SANDERS, *of New York*

BRIAN A. SELVAN, *of California*

ILENE J. STRAUSS, *of New York*

SHARAN K. SURI, *of Michigan*

PHILLANDAS T. THOMPSON, *of Mississippi*

ELANA TYRANGIEL, *of Maryland*

BRYAN R. WALTERS, *of Michigan*

ROBERT C. WEISZ, *of New York*

ANDREW W. WORSECK, *of Missouri*

AMY J. YANOFF, *of Maryland*

*Article Review Board